


USE OF FORCE

<p style="text-align: center;">POLICY & PROCEDURE NO. 1.01</p>	<div style="text-align: center;">  </div> <p>ISSUE DATE: June 9, 2003</p>
	<p>EFFECTIVE DATE: August 19, 2021</p>
<p style="text-align: center;">MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 1.3.1; 1.3.2; 1.3.3; 1.3.4; 1.3.5</p>	<p>REVISION DATE: August 19, 2021</p>

BACKGROUND:

Because of their law enforcement and peacekeeping role, police officers will be required at times to resort to the use of physical force to enable them to fully carry out their responsibilities. Police officers are confronted continually with situations requiring or resulting in the use of various degrees of force to affect a lawful arrest, to ensure public safety, or to protect themselves or others from harm. The degree of force used is dependent upon the facts surrounding the situation. Only a reasonable and necessary amount of force may be used. The degree of force the officer is forced to use often depends upon the amount of resistance or threat to safety the situation produces.

The objective of the use of force is to maintain and/or reestablish control over a situation. Control is reached when a person complies with an officer's directions and/or the suspect is restrained or apprehended and no longer presents a threat to the officer or others. Since officers will encounter a wide range of behaviors, they must be prepared to utilize a range of force options that are reasonable and necessary to maintain and/or reestablish control by overcoming resistance to their lawful authority while minimizing injuries.

Because there are an unlimited number of possibilities, allowing for a wide variety of circumstances, no written policy can offer definitive answers to every situation in which the use of force might be appropriate. Rather, this policy will set certain specific guidelines and provide officers with a concrete basis on which to utilize sound judgment in making reasonable and prudent decisions.

POLICY:

It is the policy of the Department that: [1.3.1]

1. Officers use only the force that is reasonably necessary to accomplish lawful objectives such as to make a lawful arrest, to place a person into protective custody, to effectively bring an incident under control, or to protect the lives or safety of the officer and others.
2. When exigent and unforeseen circumstances cause officers to deviate from the provisions of this rule, officers are still expected to act with intelligence, sound judgment and in full conformity with both state and federal laws and constitutional provisions.
3. Any such deviations from the provisions of this policy shall be examined on a case by case basis.
4. A law enforcement officer shall not use physical force upon another person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary to:
 - i. effect the lawful arrest or detention of a person;
 - ii. prevent the escape from custody of a person;
 - iii. prevent imminent harm and the amount of force used is proportionate to the threat of imminent harm; provided, however, that a law enforcement officer may use necessary, proportionate and non-deadly force in accordance with the regulations promulgated jointly by the commission and the municipal training committee pursuant to subsection (d) of section 15 of Chapter 6E.

DEFINITIONS:

1. *Deadly Force*: Any use of force that is reasonably intended or likely to cause death or great bodily harm. In cases of an officer involved shooting refer to policy **[1.02] Post-Shooting Incident Procedures**
2. *Non-Deadly Force*: Any use of force other than that which is considered deadly force. This includes any physical effort used to control or restrain another, or to overcome the resistance of another.
3. *Intervene*: To come between, whether verbally or physically, so as to prevent or alter a result or course of events.
4. *Chokehold*: The use of a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of law enforcement officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow with the intent of or with the result of causing bodily injury, unconsciousness or death are strictly prohibited by statute.

PROCEDURES:

De-Escalation

Officers shall use de-escalation techniques whenever possible and appropriate to the tactical situation, before resorting to force and to reduce the need for force. De-escalation techniques may include verbal persuasion, warnings and tactical de-escalation techniques, such as slowing down the pace of an incident, waiting out subjects, creating distance (and thus the reactionary gap) between the member and the threat, and requesting additional resources (e.g., specialized units, mental health care providers, negotiators, etc.) to resolve the incident, including, but not limited to, calling in medical and licensed mental health professional. As defined in subsection (a) of section 51 ½ of chapter 111, to address a potential medical or mental health crisis.

1. When reasonable under the totality of circumstances, members should use advisements, warnings, verbal persuasion, and other tactics and alternatives to higher levels of force.
2. Members should recognize that they may withdraw to a position that is tactically advantageous or allows them greater distance in order to de-escalate a situation or consider or deploy a greater variety of force options, including lesser force or no force at all.
3. Members shall perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others through poor tactical decisions.
4. Members shall not use tactics designed to intentionally escalate the level of force

Use of Deadly Force [1.3.2]

Officers are authorized to use deadly force to protect the officer or others from what is reasonably believed to be a threat of death or serious bodily injury. However, officers **shall not use deadly force** upon a person unless de-escalation tactics have been attempted and failed or are not feasible based on the **totality of the circumstances and such force is necessary to prevent imminent harm** to a person and the amount of force used is proportionate to the threat of imminent harm. Such force shall be adequate to overcome a suspect's resistance.

Deadly force may only be used to effect an arrest ifⁱ:

1. The arrest is for a felony;
2. The officer reasonably believes that the force employed creates no substantial risk to innocent persons;
3. The officer reasonably believes that the crime for which the arrest is to be made involved the use or threatened use of deadly force; and
4. There is a substantial risk that the person to be arrested will cause death or serious bodily injury if such person's apprehension is delayed.

For purposes of this policy *reasonable belief* and *serious bodily injury* are defined as follows:

Reasonable Belief: Facts that an officer knows or should have known that would cause an ordinary and prudent police officer to act or think in a similar way under similar circumstances.

Serious Bodily Injury: Any bodily injury which creates a substantial risk of death, causes serious permanent injury or disfigurement, or results in the extended loss or impairment of function for anybody member or organ.

Where practical, prior to discharging a firearm, officers shall identify themselves as law enforcement officers and issue verbal commands.

Deadly Force Restrictions

The Shift Supervisor may authorize an officer to use deadly force in order to euthanize an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured when the officer reasonably believes that deadly force can be used without harm to the officer or others.

Firearms shall not be discharged as a bluff or warning. Firearms may be discharged as a signal shot in exceptional circumstances. **[1.3.3]**

Discharging a firearm at or from a moving vehicle creates a substantial risk to innocent bystanders. A law enforcement officer shall not discharge any firearm into or at a fleeing motor vehicle unless, based on the totality of the circumstances, such discharge is necessary to prevent imminent harm to a person and the discharge is proportionate to the threat of imminent harm to a person.

Use of Non-Deadly Force [1.3.4]

Where deadly force is not authorized, officers may use only that level of force that is proportionate to the threat of imminent harm. Such force shall be adequate to overcome a suspect's resistance. Officers are authorized to use non-deadly force techniques in accordance with department approved training and authorized equipment to:

1. Restrain or subdue a resistant individual, while effecting a lawful arrest or detention; or
2. Prevent the escape of a detainee from custody; or
3. Prevent imminent harm to the officer or another.

The amount and degree of force, which may be employed, will be determined by the totality of circumstances including, but not limited to:

1. The nature and seriousness of the offense;

2. The behavior of the subject against whom force is to be used;
3. Actions by third parties who may be present;
4. Physical odds against the officer;
5. The feasibility or availability of alternative actions; and
6. The opportunity to use de-escalation tactics at any time during the encounter.

An officer shall only use that amount of force that the officer feels would be reasonable in a particular situation to accomplish his/her lawful objective or to protect the officer or another from serious bodily injury or death. Officers should continuously evaluate the circumstances of the encounter with the goal of exploiting both verbal and tactical opportunities with the intent of de-escalating to a lower force level.

Weaponless uses of physical force may include, but are not limited to, hand strikes, elbow strikes, knee strikes, and foot strikes, using a level of force in accordance with department approved training.

A law enforcement officer shall not use a chokehold. A law enforcement shall not be trained to use a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of the law enforcement officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow.

OC may be used to protect an officer or other person from an assault; subdue a person who resists arrest; or control persons engaged in riotous or violent conduct. Whenever practical and reasonable, officers should issue a verbal warning prior to using OC spray.

In accordance with department approved training, the police baton may be used as a restraining or come-along tool in instances where verbalization and physical strength have failed or would obviously be futile. It can be used as a defensive weapon to ward off blows. It also can be used to deliver disabling blows to non-vital areas of the body as a means to halt or deter a subject when all lesser means of applying non-deadly force have failed or would obviously be futile.

A shotgun equipped with less lethal impact munitions may be used, in accordance with department training, as an additional force option that can be applied in volatile situations. Use of the beanbag shotgun is a team effort and officers should be prepared to use other force options as dictated by the situation.

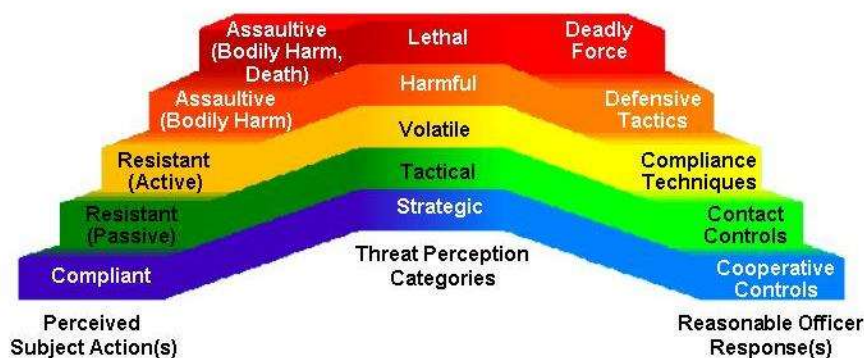
The mere placing of handcuffs on a prisoner will not be construed to be a use of physical force. Officers should document in the report that the person was handcuffed. Use of restraining devices is mandatory on all prisoners, unless in the officer's judgment unusual circumstances exist which make the use of restraining devices impossible or unnecessary (e.g., very young juvenile, handicapped, injured).

Model of Force MPTC

1. Each encounter an officer is involved in should be viewed as a dynamic and

evolving event. This requires the officer to continuously monitor both the situation and the actions of the subject(s) involved. Based on the officer's assessment of the perceived subject actions and situation, he/she will determine to escalate, de-escalate, or maintain the current force options.

2. The Use of Force Model provides basic subject classification and potential officer responses. A subject may fit into more than one classification at a given time, and it is up to the officer to reasonably apply the necessary and appropriate force options based on the situation faced at the time.
3. The potential responses listed may not include all force options open to the officer at a point in time, based on his/her level of training and available equipment. It shall be stressed, as part of this policy, that the Use of Force Model is guideline and suggested courses of action but are not the only course of action.



Compliant subject

Level 1

This subject complies with officer requests/orders and offers no resistance either verbal or physical. The vast majority of persons an officer will encounter are in this classification.

Potential responses: Communication skills; physical contact to guide subject; or compliant handcuffing techniques.

Passive Resistant subject

Level 2

The preliminary level of non-compliance. While the subject does not comply with officer requests/orders and may issue verbal non-compliance, there is no physical resistance or flight. An example is a subject that goes limp or lies on the ground, but offers no resistance to being handcuffed or moved by officers.

Potential response: Empty hand contact controls to guide or remove subject from an area and handcuff.

Active Resistant subject

Level 3

Non-compliance includes physical effort or flight by the subject that is directed at avoiding the arrest. Examples include flight by either foot or conveyance, lying on the ground and locking arms under body, holding on to other persons or objects, or tensing up, twisting or pulling away from the officer.

Potential responses: Empty hand techniques to gain control (wristlock, arm-bar); distraction techniques (joint manipulation, pressure points); chemical irritants (OC), or baton arm-lock. Use of the ECW in a drive stun is also an example of a response at this level.

Assaultive / Bodily harm

Level 4

The officer perceives that a subject is preparing to assault, is currently assaulting, or has assaulted the officer or another person with force that will not cause serious injury or death. Examples include empty hand assaults such as pushing, shoving, punching, wrestling or grasping.

Potential responses: Defensive tactics designed to cease the non-lethal assault such as empty hand strikes (elbow, knee, head-butt, kicks, punches, and blocks); or less-lethal weapons (baton strikes, blocks, and bean-bag gun). Full Deployment of the ECW where the probes “hit” the subject would also be a response at this level.

Assaultive / Serious Bodily Harm or Death

Level 5

The officer perceives that an assault on him/herself or another has risen, or is about to rise, to a level with the potential to cause serious injury or death.

Examples include empty hand attacker trying to disarm an officer, strangling, and assaults with weapons.

Potential responses: While a department-issued or approved firearm is the preferred response in a lethal force encounter, it is recognized that a situation may arise where an officer has been disarmed or is caught unaware by a sudden and violent assault. If such occurs, the following options should also be considered: less-lethal weapons (baton strikes to red target areas, bean-bag gun with modified points of aim to upper torso/head); or empty hand strikes or holds to lethal target areas, or weapons of available means.

Threat Perception Categories

Strategic - the broad “mind set” of the officer, represented by the blue baseline on the Threat Perception Color Code □. The contemporary officer must maintain this functional foundation, centered upon strategies designed to enhance the status of safety.

Tactical - the second level on the Use of Force Model, depicted by the color green. Here the officer perceives an increase in threat potential within the confrontational environment and tactical procedures are designated and deployed.

Volatile - the third level on the Use of Force Model utilizing the color yellow to indicate an activated level of alertness and threat potential. Here the officer is confronted with the presence or potential of critical dynamics, including threat intensity and severity within the enforcement encounter.

Harmful - at this level on the Use of Force Model the color orange denotes an accelerated perception of threat directed upon the officer or others. In this regard the officer must deploy initial defensive force in the effort toward eventual subject compliance and control.

Lethal - the highest level on the Use of Force Model correlates to the most intense color in the Threat Perception Color Code □, red. Although this potentially lethal degree of threat is most infrequent, it remains most crucial for the continuation of officer safety and security.

Duty to Intervene

Any officer present and observing another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances, shall intervene to prevent the use of unreasonable force unless intervening would result in imminent harm to the officer or another identifiable individual.

Any officer who observes another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances shall report the incident to the Shift Supervisor or an appropriate supervisor as soon as reasonably possible, but not later than the end of the officer's shift.

The officer shall prepare a written statement describing the incident consistent with department reporting procedures. The officer's written statement shall be included with a report from the Shift Supervisor or appropriate supervisor.

Any harassment, intimidation or retaliation against the officer who made such report regarding the witnessed excessive force shall be a violation of this department policy and shall upon a sustained internal administrative investigation shall be subjected to the imposition departmental discipline up to and including termination.

Mass Demonstration

When a police department has advance knowledge of a planned mass demonstration, it shall attempt in good faith to communicate with organizers of the event to discuss logistical plans, strategies to avoid conflict and potential communication needs between police and event participants. The department shall make plans to avoid and de-escalate potential conflicts and designate an officer in charge of de-escalation planning and communication about the plans within the department.

A law enforcement shall not discharge or order the discharge of a chemical weapon or propulsion device to control or influences a person's behavior unless:

- i. De-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstance; and
- ii. The measures used are necessary to prevent imminent harm and the foreseeable harms inflicted by the chemical weapon or propulsion device is proportionate to the threat of imminent harm.

If a law enforcement officer utilizes or orders the use of any chemical weapon or propulsion device, the law enforcement officer's appointing agency shall file a report with the commission detailing all measures that were taken in advance of the event to reduce the probability of disorder and all de-escalation tactics and other measures that were taken at the time of the event to de-escalate tensions.

Medical Attention [1.3.5]

After any level of force is used, the officer shall immediately evaluate the need for medical attention or treatment for that person upon whom force was used and arrange for such treatment when:

1. That person has a visible injury; or
2. That person complains of injury or discomfort and requests medical attention.

In the case of use of oleoresin capsicum spray or another chemical agent, immediately after use on a suspect, officers shall be alert to any indications that the individual needs medical care. This includes, but is not necessarily limited to, breathing difficulties, gagging, profuse sweating and loss of consciousness.

The Town of Needham's emergency medical personnel will assess all medical injuries and determine the appropriate level of care needed. Any subsequent transportation will be in accordance with the policy on **Transportation of Detainees**.

Supervisor Notification

An officer shall promptly notify his/her immediate supervisor of any incident involving the injury of a prisoner, death of a prisoner, or the use of a lethal or non-lethal weapon, excluding oleoresin capsicum spray. Appropriate medical treatment shall be provided. If available, the Shift Supervisor should immediately respond to the scene of any incident where a prisoner is injured. The incident will be investigated and documented according to the policy on **Use of Force Reporting**.

Injury to Prisoner

1. The officer shall promptly notify his/her immediate supervisor of the incident.
2. The officer shall attempt to locate and identify all witnesses, and obtain and document their statements.
3. The officer shall prepare and submit all required reports. If more than one officer is involved in a use of force incident resulting in an injury, each officer shall complete a report outlining his/her actions and observations in the incident. (See Reports and Statements below)

Patrol Supervisor

1. If available, the patrol supervisor shall immediately respond to the scene of any incident where, as the result of the application of physical force, an officer is injured, or a prisoner has a visible injury, or complains of injury or discomfort and requests medical attention, and
2. The patrol supervisor shall:
 - i. Ensure that officers receive any necessary assistance, including medical treatment, and that any injuries to officers are properly documented;
 - ii. Ensure that the need for medical treatment for the prisoner is properly evaluated and provided;
 - iii. Determine if a detective should respond to the scene and the level of investigative services to be utilized (including photos, measurements, and diagrams). If an injury or complaint of pain exists, supervisors are encouraged to obtain photographs; and

NOTE: A photograph showing no injury may be as important as one which shows injury.

- iv. In accordance with M.G.L. Chapter 276 Section 33 (Examination of Arrested Persons for Injuries) submit a report regarding the incident and his/her observations with the Chief of Police.
3. In cases of an officer involved shooting refer to policy [1.02] **Post-Shooting Incident Procedures**

Training [1.3.12]

All new hires will be issued a copy of this policy and receive instruction on it as part of the department's Field Training Officer (FTO) program. Documentation will be kept in each officer's FTO file.

Training for reoccurring firearms and defensive tactics instruction will be done in accordance with the policy on ***Authorized Weapons***.

Reports and Statements

1. This section on reports and statements shall apply to all situations involving the actual or alleged use of force and governed by Policy & Procedure 1.00 to 1.03 or any subsection of those policies.
2. As set forth above, the department recognizes that officers experience significant stress in incidents involving the actual or alleged discharge of weapons, those involving serious injury or death, those involving an altercation and those involving the use of significant force to subdue an individual.
3. Officers involved in or witnessing the use of force shall have the right to consult with an attorney and a union representative. They may make such consultation before being required to write a report or give an interview regarding the incident. All officers involved in any such incident shall be notified of these rights by their supervisor or the officer in charge of any investigation. Officers involved in incidents resulting in injury or death resulting from the use of force by a Needham police officer, or in the discharge of a weapon shall submit a report and be interviewed as soon as practicable after they have had the opportunity to consult with an attorney and union representative, and after they have had the opportunity to seek any necessary medical treatment.¹

¹ *Com. v. Klein*, 372 Mass. 823, 363 N.E.2d 1313 (1977)

² The Fifth Amendment to the Constitution of the United States and Article 12 of the Massachusetts Declaration of Rights apply to situations, which could ultimately involve as issue of criminal charges, including the right to remain silent and the right to consult an attorney. The courts have held that a police officer cannot be compelled to give a statement in such a case. Carney v. Springfield, 403 Mass. 604 (1988). Employees have the right to have a union representative present and to consult a union representative. NLRB v. Weingarten, 420 U.S. 251 (1975).
